



Ministry of Labour  
Operations Division

# Extracts from the Occupational Health and Safety Act

An Act  
respecting the  
Occupational  
Health and  
Occupational  
Safety of  
workers

## Definitions Section 1.

'*adjudicator*' means the occupational health and safety adjudicator appointed under subsection 20(1);

'*Agency*' means the Workplace Health and Safety Agency continued under section 13;

'*certified member*' means a committee member who is certified by the Agency under clause 16(1)(c);

'*competent person*' means a person who,

a) is qualified because of knowledge, training and experience to organize the work and its performance,

b) is familiar with the provisions of this Act and the regulations that apply to the work, and

c) has knowledge of any potential or actual danger to health or safety in the workplace;

'*supervisor*' means a person who has charge of a workplace or authority over a worker;

'*workplace*' means any land, premises, location or thing at, upon, in or near which a worker works;

'*worker*' means a person who performs work or supplies services for monetary compensation but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program.

## Health and safety representatives Section 8.

1) At a project or other workplace where no committee is required under section 9 and where the number of workers regularly exceeds five, the constructor or employer shall cause the workers to select at least one health and safety representative from among the workers at the workplace who do not exercise managerial functions.

2) If no health and safety representative is required under subsection (1) and no committee is required under section 9 for a workplace, the Minister may, by order in writing, require a constructor or employer to cause the workers to select one or more health and safety representatives from among the workers at the workplace or part thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representatives.

3) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of functions of a health and safety representative.

4) In exercising the power conferred by subsection (2), the Minister shall consider the matters set out in subsection 9(5).

5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the workplace, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

6) Unless otherwise required by the regulations or by an order by an inspector, a health and safety representative shall inspect the physical condition of the workplace at least once a month.

7) If it is not practical to inspect the workplace at least once a month, the health and safety representative shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

8) The inspection required by subsection (7) shall be undertaken in accordance with a schedule agreed upon by the constructor or employer and the health and safety representative.

9) The constructor, employer and workers shall provide a health and safety representative with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

10) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his or her findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

3) Despite subsections (1) and (2), the Minister may, by order in writing, require a constructor or an employer to establish and maintain one or more joint health and safety committees for a workplace or a part thereof, and may, in such order, provide for the composition, practice and procedure of any committee so established.

4) The constructor or employer shall cause a joint health and safety committee to be established and maintained at the workplace unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate is, on the 1st day of January, 1991, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section.

5) In exercising the power conferred by subsection (3), the Minister shall consider,

a) the nature of the work being done;

b) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a workplace;

c) the frequency of illness or injury in the workplace or in the industry of which the constructor or employer is a part;

d) the existence of health and safety programs and procedures in the workplace and the effectiveness thereof; and

e) such other matters as the Minister considers advisable.

6) A committee shall consist of,

a) at least two persons, for a workplace where fewer than fifty workers are regularly employed; or

b) at least four persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed.

7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions.

8) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions.

9) The constructor or employer shall select the remaining members of a committee from among persons who exercise managerial functions for the constructor or employer and, to the extent possible, who do so at the workplace.

10) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee.

11) Two of the members of a committee shall co-chair the committee, one of whom shall be selected by the members who represent workers and the other of whom shall be selected by the members who exercise managerial functions.

12) Unless otherwise prescribed, a constructor or employer shall ensure that at least one member of the committee representing the constructor or employer and at least one member representing workers are certified members.

13) Subsection (12) does not apply with respect to a project where fewer than fifty workers are regularly employed or that is expected to last less than three months.

14) If no member representing workers is a certified member, the workers or the trade unions who selected the members representing workers shall select from among them one or more who are to become certified.

15) If there is more than one certified member representing workers, the workers or the trade unions who selected the members representing workers shall designate one or more certified members who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing workers.

16) If there is more than one certified member representing the constructor or employer, the constructor or employer shall designate one or more of them who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing a constructor or an employer.

17) If a certified member resigns or is unable to act, the constructor or employer shall, within a reasonable time, take all steps necessary to ensure that the requirement set out in subsection (12) is met.

18) It is the function of a committee and it has power to,

a) identify situations that may be a source of danger or hazard to workers;

31) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a workplace from any cause and one of those members may, subject to subsection 51(2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a Director and to the committee.

32) A constructor or an employer required to establish a committee under this section shall post and keep posted at the workplace the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

33) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister.

34) A member of a committee is entitled to,

a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;

b) such time as is necessary to attend meetings of the committee; and

c) such time as is necessary to carry out the member's duties under subsections (26), (27) and (31).

35) A member of a committee shall be deemed to be at work during the times described in subsection (34) and the member's employer shall pay the member for those times at the member's regular or premium rate as may be proper.

36) A member of a committee shall be deemed to be at work while the member is fulfilling the requirements for becoming certified by the Agency and the member's employer shall pay the member for the time spent at the member's regular or premium rate as may be proper.

37) Subsection (36) does not apply with respect to workers who are paid by the Agency for the time spent fulfilling the requirements for becoming certified.

38) Any committee of a like nature to a committee established under this section in existence in a workplace under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section.

39) Where a dispute arises as to the application of subsection (2), or the compliance or purported compliance therewith by a constructor or an employer, the dispute shall be decided by the Minister after consulting the constructor or the employer and the workers or the trade union or trade unions representing the workers.

## Section 10.

1) If a committee is required at a project, other than a project where fewer than fifty workers are regularly employed or that is expected to last less than three months, the committee shall establish a worker trades committee for the project.

2) The members of a worker trades committee shall represent workers employed in each of the trades at the workplace.

3) The members of a worker trades committee shall be selected by the workers employed in the trades the members are to represent or, if a trade union represents the workers, by the trade union.

4) It is the function of a worker trades committee to inform the committee at the workplace of the health and safety concerns of the workers employed in the trades at the workplace.

5) Subject to subsection (6), a member of a worker trades committee is entitled to such time from work as is necessary to attend meetings of the worker trades committee and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at the member's regular or premium rate as may be proper.

6) The committee for a workplace shall determine the maximum amount of time for which members of a worker trades committee for the workplace are entitled to be paid under subsection (5) for each meeting of the worker trades committee.

## Section 11.

1) The constructor or employer at a workplace shall consult a health and safety representative or the committee with respect to proposed testing strategies for investigating industrial hygiene at the workplace.

2) The constructor or employer shall provide information to a health and safety representative or the committee concerning

m) to advise the Minister on matters related to occupational health and safety which may be brought to its attention or be referred to it;

n) to oversee the operation of,

(i) such occupational health and safety medical clinics as may be designated by regulation,

(ii) such safety and accident prevention associations as may be designated by regulation, and

(iii) such occupational health and safety training centres as may be designated by regulation;

o) to make grants or provide funds, or both, to the organizations referred to in clause (n);

p) to provide programs and services for a fee.

## Duties of employers and other persons Section 23.

1) A constructor shall ensure, on a project undertaken by the constructor that,

a) the measures and procedures prescribed by this Act and the regulations are carried out on the project;

b) every employer and every worker performing work on the project complies with this Act and the regulations; and

c) the health and safety of workers on the project is protected.

2) Where so prescribed, a constructor shall, before commencing any work on a project, give to a Director notice in writing of the project containing such information as may be prescribed.

## Section 24.

1) A licensee shall ensure that,

a) the measures and procedures prescribed by this Act and the regulations are carried out with respect to logging in the licensed area;

b) every employer performing logging in the licensed area for the licensee complies with this Act and the regulations; and

c) the health and safety of workers employed by employers licensed is authorized to cut Crown timber.

2) In this section, "licensed area" means the lands on which the licensee is authorized to cut Crown timber.

## Section 25.

1) An employer shall ensure that,

a) the equipment, materials and protective devices as prescribed are provided;

b) the equipment, materials and protective devices provided by the employer are maintained in good condition;

c) the measures and procedures prescribed are carried out in the workplace;

d) the equipment, materials and protective devices provided by the employer are used as prescribed; and

e) a floor, roof, wall, pillar, support or other part of a workplace is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the Building Code Act.

2) Without limiting the strict duty imposed by subsection (1), an employer shall,

a) provide information, instruction and supervision to a worker to protect the health or safety of the worker;

b) in a medical emergency for the purpose of diagnosis or treatment, provide, upon request, information in the possession of the employer, including confidential business information, to a legally qualified medical practitioner and to such other persons as may be prescribed;

c) when appointing a supervisor, appoint a competent person;

d) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;

e) afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of their

3) If a worker participates in a prescribed medical surveillance program or undergoes prescribed medical examinations or tests, his or her employer shall pay,

a) the worker's costs for medical examinations or tests required by the medical surveillance program or required by regulation;

b) the worker's reasonable travel costs respecting the examinations or tests; and

c) the time the worker spends to undergo the examinations or tests, including travel time, which shall be deemed to be work time for which the worker shall be paid at his or her premium rate as may be proper.

## Section 27.

1) A supervisor shall ensure that a worker,

a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and

b) uses or wears the equipment, protective devices or clothing that the worker's employer requires to be used or worn.

2) Without limiting the duty imposed by subsection (1), a supervisor shall,

a) advise a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware;

b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker; and

c) take every precaution reasonable in the circumstances for the protection of a worker.

## Section 28.

1) A worker shall,

a) work in compliance with the provisions of this Act and the regulations;

b) use or wear the equipment, protective devices or clothing that the worker's employer requires to be used or worn;

c) report to his or her employer or supervisor the absence of or defect in any equipment or protective device of which the worker is aware and which may endanger himself, herself or another worker; and

d) report to his or her employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he or she knows.

2) No worker shall,

a) remove or make ineffective any protective device required by the regulations or by his or her employer, without providing an adequate temporary protective device and when the need for removing or making ineffective the protective device has ceased, the protective device shall be replaced immediately;

b) use or operate any equipment, machine, device or thing or work in a manner that may endanger himself, herself or any other worker; or

c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

3) A worker is not required to participate in a prescribed medical surveillance program unless the worker consents to do so.

## Right to refuse or to stop work where health or safety in danger Section 43.

1) This section does not apply to a worker described in subsection (2).

a) when a circumstance described in clause (3)(a), (b) or (c) is inherent in the worker's work or is a normal condition of the worker's employment; or

b) when the worker's refusal to work would directly endanger the life, health or safety of another person.

2) The worker referred to in subsection (1) is,

a) a person employed in, or a member of, a police force to

7) An inspector shall investigate the refusal to work in the presence of the employer or a person representing the employer, the worker, and if there is such, the person mentioned in clause (4)(a), (b) or (c).

8) The inspector shall, following the investigation referred to in subsection (7), decide whether the machine, device, thing or the workplace or part thereof is likely to endanger the worker or another person.

9) The inspector shall give his or her decision, in writing, as soon as is practicable, to the employer, the worker, and, if there is such, the person mentioned in clause (4)(a), (b) or (c).

10) Pending the investigation and decision of the inspector, the worker shall remain at a safe place near his or her work station during the worker's normal working hours unless the employer, subject to the provisions of a collective agreement, if any,

a) assigns the worker reasonable alternative work during such hours; or

b) subject to section 50, where an assignment of reasonable alternative work is not practicable, gives other directions to the worker.

11) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing or to work in the workplace or in the part of the workplace being investigated unless, in the presence of a person described in subsection (12), the worker has been advised of the other worker's refusal and of his or her reasons for the refusal.

12) The person referred to in subsection (11) must be,

a) a committee member who represents workers and, if possible, who is a certified member;

b) a health and safety representative; or

c) a worker who because of his or her knowledge, experience and training is selected by the trade union that represents the worker or, if there is no trade union, by the workers to represent them.

13) A person shall be deemed to be at work and the person's employer shall pay him or her at the regular or premium rate, as may be proper,

a) for the time spent by the person carrying out the duties under subsections (4) and (7) of a person mentioned in clause (4)(a), (b) or (c); and

b) for time spent by the person carrying out the duties under subsection (11) of a person described in subsection (12).

## Section 44.

1) In sections 45 to 48, "dangerous circumstances" means a situation in which,

a) a provision of this Act or the regulations is being contravened;

b) the contravention poses a danger or a hazard to a worker; and

c) the danger or hazard is such that any delay in controlling it may seriously endanger a worker.

2) Sections 45 to 49 do not apply to,

a) a workplace at which workers described in clause 43 (2)(a), (b) or (c) are employed; or

b) a workplace at which workers described in clause 43 (2)(d) are employed if a work stoppage would directly endanger the life, health or safety of another person.

## Section 45.

1) A certified member who has reason to believe that dangerous circumstances exist at a workplace may request that a supervisor investigate the matter and the supervisor shall promptly do so in the presence of the certified member.

2) The certified member may request that a second certified member representing the other workplace party investigate the matter if the first certified member has reason to believe that dangerous circumstances continue after the supervisor's investigation and remedial actions, if any.

3) The second certified member shall promptly investigate the matter in the presence of the first certified member.

4) If both certified members find that the dangerous circumstances exist, the certified members may direct the constructor or employer to stop the work or to stop the use of any part of a workplace or of any equipment, machine, device, article or thing.

5) The constructor or employer shall immediately comply with the direction and shall ensure that compliance is effected in a way that does not endanger a person.

6) After taking steps to remedy the dangerous circumstances, the constructor or employer may request the certified member or an inspector to cancel the direction.

7) The certified member who made the direction or an inspector may cancel it.

## Section 48.

1) A certified member who receives a complaint that dangerous circumstances exist is entitled to investigate the complaint.

2) The time spent by a certified member in exercising powers and carrying out duties under this section and sections 45 and 47 shall be deemed to be work time for which the member's employer shall pay the member at the regular or premium rate as may be proper.

## Section 49.

1) A constructor, an employer, a worker at the workplace or a representative of a trade union that represents workers at the workplace may file a complaint with the adjudicator if he, she or it has reasonable grounds to believe that a certified member at the workplace recklessly or in bad faith exercised or failed to exercise a power under section 45 or 47.

2) A complaint must be filed not later than fourteen days after the event to which the complaint relates.

3) The Minister is entitled to be a party to a proceeding before the adjudicator.

4) The adjudicator shall make a decision respecting the complaint and may make such order as he or she considers appropriate in the circumstances including an order decertifying a certified member.

5) The decision of the adjudicator is final.

## Reprisals by employer prohibited Section 50.

1) No employer or person acting on behalf of an employer shall,

a) dismiss or threaten to dismiss a worker;

b) discipline or suspend or threaten to discipline or suspend a worker;

c) impose any penalty upon a worker; or

d) intimidate or coerce a worker,

because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations or has given evidence in a proceeding in respect of the enforcement of this Act or the regulations or in an inquest under the *Coroners Act*.

2) Where a worker complains that an employer or person acting on behalf of an employer has contravened subsection (1), the worker may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply with all necessary modifications, to the complaint.

3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection (2) and section 91 of the *Labour Relations Act*, except subsection (5), applies with all necessary modifications, as if such section, except subsection (5), is enacted in and forms part of this Act.

4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), sections 104, 105, 108, 110 and 111 of the *Labour Relations Act* apply, with all necessary modifications.

5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection (1) lies upon the employer or the person acting on behalf of the employer.

6) The Ontario Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection (1).

7) Where on an inquiry by the Ontario Labour Relations



3) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of functions of a health and safety representative.

4) In exercising the power conferred by subsection (2), the Minister shall consider the matters set out in subsection 9(5).

5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the workplace, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

6) Unless otherwise required by the regulations or by an order by an inspector, a health and safety representative shall inspect the physical condition of the workplace at least once a month.

7) If it is not practical to inspect the workplace at least once a month, the health and safety representative shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

8) The inspection required by subsection (7) shall be undertaken in accordance with a schedule agreed upon by the constructor or employer and the health and safety representative.

9) The constructor, employer and workers shall provide a health and safety representative with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

10) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his or her findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

- 11) A health and safety representative has the power,
- to obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety;
  - to be consulted about, and be present at the beginning of, testing referred to in clause (a) conducted in or about the workplace if the representative believes his or her presence is required to ensure that the valid testing procedures are used or to ensure that the test results are valid; and
  - to obtain information from the constructor or employer respecting,
    - the identification of potential or existing hazards of materials, processes or equipment, and
    - health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

12) A constructor or employer who receives written recommendations from a health and safety representative shall respond in writing within twenty-one days.

13) A response of a constructor or employer under subsection (12) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons that the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.

14) Where a person is killed or critically injured at a workplace from any cause, the health and safety representative may, subject to subsection 51(2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings in writing to a Director.

15) A health and safety representative is entitled to take such time from work as is necessary to carry out his or her duties under subsections (6) and (14) and the time so spent shall be deemed to be work time for which the representative shall be paid by his or her employer at the representative's regular or premium rate as may be proper.

16) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the constructor or the employer and the workers, has, in addition to his or her functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a health and safety representative by this section.

## Joint health and safety committees

### Section 9.

- Subject to subsection (3), this section does not apply, a) to a constructor at a project at which work is expected to last less than three months; or b) to a prescribed employer or workplace or class of employers or workplaces.
- A joint health and safety committee is required, a) at a workplace at which twenty or more workers are regularly employed; b) at a workplace with respect to which an order to an employer is in effect under section 33; or c) at a workplace, other than a construction project where fewer than twenty workers are regularly employed, with respect to which a regulation concerning designated substances applies.

12) Unless otherwise prescribed, a constructor or employer shall ensure that at least one member of the committee representing the constructor or employer and at least one member representing workers are certified members.

13) Subsection (12) does not apply with respect to a project where fewer than fifty workers are regularly employed or that is expected to last less than three months.

14) If no member representing workers is a certified member, the workers or the trade unions who selected the members representing workers shall select from among them one or more who are to become certified.

15) If there is more than one certified member representing workers, the workers or the trade unions who selected the members representing workers shall designate one or more certified members who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing workers.

16) If there is more than one certified member representing the constructor or employer, the constructor or employer shall designate one or more of them who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing a constructor or an employer.

17) If a certified member resigns or is unable to act, the constructor or employer shall, within a reasonable time, take all steps necessary to ensure that the requirement set out in subsection (12) is met.

- 18) It is the function of a committee and it has power to,
- identify situations that may be a source of danger or hazard to workers;
  - make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;
  - recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers;
  - obtain information from the constructor or employer respecting,
    - the identification of potential or existing hazards of materials, processes or equipment, and
    - health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge;
  - obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety; and
  - be consulted about, and have a designated member representing workers be present at the beginning of, testing referred to in clause (e) conducted in or about the workplace if the designated member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

19) The members of the committee who represent workers shall designate one of them who is entitled to be present at the beginning of testing described in clause (18)(f).

20) A constructor or employer who receives written recommendations from a committee shall respond in writing within twenty-one days.

21) A response of a constructor or employer under subsection (20) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.

22) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.

23) Subject to subsection (24), the members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the workplace.

24) If possible, the member designated under subsection (23) shall be a certified member.

25) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection.

26) Unless otherwise required by the regulations or by an order by an inspector, a member designated under subsection (23) shall inspect the physical condition of the workplace at least once a month.

27) If it is not practical to inspect the workplace at least once a month, the member designated under subsection (23) shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

28) The inspection required by subsection (27) shall be undertaken in accordance with a schedule established by the committee.

29) The constructor, employer and the workers shall provide a member designated under subsection (23) with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

30) The member shall inform the committee of situations that may be a source of danger or hazard to workers and the committee shall consider such information within a reasonable period of time.

2) The members of a worker trades committee shall represent workers employed in each of the trades at the workplace.

3) The members of a worker trades committee shall be selected by the workers employed in the trades the members are to represent or, if a trade union represents the workers, by the trade union.

4) It is the function of a worker trades committee to inform the committee at the workplace of the health and safety concerns of the workers employed in the trades at the workplace.

5) Subject to subsection (6), a member of a worker trades committee is entitled to such time from work as is necessary to attend meetings of the worker trades committee and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at the member's regular or premium rate as may be proper.

6) The committee for a workplace shall determine the maximum amount of time for which members of a worker trades committee for the workplace are entitled to be paid under subsection (5) for each meeting of the worker trades committee.

### Section 11.

1) The constructor or employer at a workplace shall consult a health and safety representative or the committee with respect to proposed testing strategies for investigating industrial hygiene at the workplace.

2) The constructor or employer shall provide information to a health and safety representative or the committee concerning testing strategies to be used to investigate industrial hygiene at the workplace.

3) A health and safety representative or a designated committee member representing workers at a workplace is entitled to be present at the beginning of testing conducted with respect to industrial hygiene at the workplace if the representative or member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

4) The committee members representing workers shall designate one of them for the purpose of subsection (3).

## Workplace Health and Safety Agency

### Section 13.

1) The Workplace Health and Safety Agency is continued under the name Workplace Health and Safety Agency in English and Agence pour la santé et la sécurité au travail in French.

2) The Agency is composed of a board of directors, appointed by the Lieutenant Governor in Council, consisting of,

- one chair, selected in accordance with subsection (3);
- two full-time vice-chairs, one of whom represents management and one of whom represents labour;
- twelve part-time members, six of whom represent management and six of whom represent labour;
- four additional part-time members who are health and safety professionals, two selected in consultation with representatives of management and two selected in consultation with representatives of labour; and
- the executive director of the Agency, selected in consultation with the other members of the board.

### Section 16.

1) The functions of the Agency are, and it has the power,

- to develop requirements for the certification of members of committees and other workers;
- to establish and administer, in accordance with the requirements of the Minister, the certification process including the training requirements of members of committees and other workers;
- to certify persons according to requirements established under this Act and standards developed by the Agency;
- to develop and deliver educational and training programs, purchase programs from other institutions and contribute to the development of safety programs by other institutions;
- to make grants or provide funds, or both, for the purposes described in clause (d);
- to promote public awareness of occupational health and safety;
- to provide funding for occupational health and safety research;
- to develop standards for first aid training and education and provide funding for first aid training;
- to develop requirements for the accreditation of employers who operate successful health and safety programs and policies;
- to accredit and revoke the accreditation of employers according to the standards developed by the Agency;
- to advise the Workers' Compensation Board if accredited employers operate in such a manner as to reduce the hazard to workers in the workplace;
- to advise the Workers' Compensation Board if employers fail to take sufficient precaution for the prevention of hazards to workers;

- the equipment, materials and protective devices as prescribed are provided;
- the equipment, materials and protective devices provided by the employer are maintained in good condition;
- the measures and procedures prescribed are carried out in the workplace;
- the equipment, materials and protective devices provided by the employer are used as prescribed; and
- a floor, roof, wall, pillar, support or other part of a workplace is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the Building Code Act.

2) Without limiting the strict duty imposed by subsection (1), an employer shall,

- provide information, instruction and supervision to a worker to protect the health or safety of the worker;
- in a medical emergency for the purpose of diagnosis or treatment, provide, upon request, information in the possession of the employer, including confidential business information, to a legally qualified medical practitioner and to such other persons as may be prescribed;
- when appointing a supervisor, appoint a competent person;
- acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;
- afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any of their functions;
- only employ in or about a workplace a person over such age as may be prescribed;
- not knowingly permit a person who is under such age as may be prescribed to be in or about a workplace;
- take every precaution reasonable in the circumstances for the protection of a worker;
- post, in the workplace, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the workplace, outlining the rights, responsibilities and duties of workers;
- prepare and review at least annually a written occupational health and safety policy and develop and maintain a program to implement that policy;
- post at a conspicuous location in the workplace a copy of the occupational health and safety policy;
- provide to the committee or to a health and safety representative the results of a report respecting occupational health and safety that is in the employer's possession and, if that report is in writing, a copy of the portions of the report that concern occupational health and safety; and
- advise workers of the results of a report referred to in clause (l) and, if the report is in writing, make available to them on request copies of the portions of the report that concern occupational health and safety.

3) For the purposes of clause (2)(c), an employer may appoint himself or herself as a supervisor where the employer is a competent person.

4) Clause (2)(j) does not apply with respect to a workplace at which five or fewer employees are regularly employed.

### Section 26.

1) In addition to the duties imposed by section 25, an employer shall,

- establish an occupational health service for workers as prescribed;
- where an occupational health service is established as prescribed, maintain the same according to the standards prescribed;
- keep and maintain accurate records of the handling, storage, use and disposal of biological, chemical or physical agents as prescribed;
- accurately keep and maintain and make available to the worker affected such records of the exposure of a worker to biological, chemical or physical agents as may be prescribed;
- notify a Director of the use or introduction into a workplace of such biological, chemical or physical agents as may be prescribed;
- monitor at such time or times or at such interval or intervals the levels of biological, chemical or physical agents in a workplace and keep and post accurate records thereof as prescribed;
- comply with a standard limiting the exposure of a worker to biological, chemical or physical agents as prescribed;
- establish a medical surveillance program for the benefit of workers as prescribed;
- provide for safety-related medical examinations and tests for workers as prescribed;
- where so prescribed, only permit a worker to work or be in a workplace who has undergone such medical examinations, tests or x-rays as prescribed and who is found to be physically fit to do the work in the workplace;
- where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for the protection of a worker; and
- carry out such training programs for workers, supervisors and committee members as may be prescribed.

2) For the purposes of clause (1)(a), a group of employers, with the approval of a Director, may act as an employer.

- any equipment, machine, device or thing of work in a manner that may endanger himself, herself or any other worker; or
- engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

3) A worker is not required to participate in a prescribed medical surveillance program unless the worker consents to do so.

## Right to refuse or to stop work where health or safety in danger

### Section 43.

1) This section does not apply to a worker described in subsection (2),

- when a circumstance described in clause (3)(a), (b) or (c) is inherent in the worker's work or is a normal condition of the worker's employment; or
- when the worker's refusal to work would directly endanger the life, health or safety of another person.

2) The worker referred to in subsection (1) is,

- a person employed in, or a member of, a police force to which the *Police Services Act* applies;
- a full-time, or a volunteer, firefighter as defined in the *Fire Departments Act*;
- a person employed in the operation of a correctional institution or facility, a training school or centre, a place of secure custody designated under section 24.1 of the *Young Offenders Act* (Canada) or a place of temporary detention designated under subsection 7 (1) of that Act or a similar institution, facility, school or home;
- a person employed in the operation of,
  - a hospital, sanatorium, nursing home, home for the aged, psychiatric institution, mental health or mental retardation centre or a rehabilitation facility,
  - a residential group home or other facility for persons with behavioural or emotional problems or a physical, mental or developmental handicap,
  - an ambulance service or a first aid clinic or station,
  - a laboratory operated by the Crown or licensed under the *Laboratory and Specimen Collection Centre Licensing Act*, or
  - a laundry, food service, power plant or technical service or facility used in conjunction with an institution, facility or service described in subclause (i) to (iv).

3) A worker may refuse to work or do particular work where he or she has reason to believe that,

- any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;
- the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself; or
- any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker.

4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of the refusal to the worker's employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of,

- a committee member who represents workers, if any;
- a health and safety representative, if any; or
- a worker who because of knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

who shall be made available and who shall attend without delay.

5) Until the investigation is completed, the worker shall remain in a safe place near his or her work station.

6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that,

- the equipment, machine, device or thing that was the cause of the refusal to work or do particular work continues to be likely to endanger himself, herself or another worker;
- the physical condition of the workplace or the part thereof in which he or she works continues to be likely to endanger himself or herself; or
- any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention continues to be likely to endanger himself, herself or another worker.

the worker may refuse to work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof.

- any equipment, machine, device or thing of work in a manner that may endanger himself, herself or any other worker; or
- engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

2) Sections 45 to 49 do not apply to,

- a workplace at which workers described in clause 43 (2)(a), (b) or (c) are employed; or
- a workplace at which workers described in clause 43 (2)(d) are employed if a work stoppage would directly endanger the life, health or safety of another person.

### Section 45.

1) A certified member who has reason to believe that dangerous circumstances exist at a workplace may request that a supervisor investigate the matter and the supervisor shall promptly do so in the presence of the certified member.

2) The certified member may request that a second certified member representing the other workplace party investigate the matter if the first certified member has reason to believe that dangerous circumstances continue after the supervisor's investigation and remedial actions, if any.

3) The second certified member shall promptly investigate the matter in the presence of the first certified member.

4) If both certified members find that the dangerous circumstances exist, the certified members may direct the constructor or employer to stop the work or to stop the use of any part of a workplace or of any equipment, machine, device, article or thing.

5) The constructor or employer shall immediately comply with the direction and shall ensure that compliance is effected in a way that does not endanger a person.

6) If the certified members do not agree whether dangerous circumstances exist, either certified member may request that an inspector investigate the matter and the inspector shall do so and provide the certified members with a written decision.

7) After taking steps to remedy the dangerous circumstances, the constructor or employer may request the certified members or an inspector to cancel the direction.

8) The certified members who issue a direction may jointly cancel it or an inspector may cancel it.

9) In such circumstances as may be prescribed, a certified member who represents the constructor or employer shall designate a person to act under this section in his or her stead when the certified member is not available at the workplace.

### Section 46.

1) A certified member at a workplace or an inspector who has reason to believe that the procedure for stopping work set out in section 45 will not be sufficient to protect a constructor's or employer's workers at the workplace from serious risk to their health or safety may apply to the adjudicator for a declaration or recommendation described in subsection (5), or both.

2) An applicant shall give written notice of an application to the constructor or employer and to a Director.

3) The Minister is entitled to be a party to a proceeding before the adjudicator.

4) The Minister may appoint an inspector to attempt to mediate a settlement of the issues between the applicant and the constructor or employer at any time after an application is made.

5) If the adjudicator finds that the procedure for stopping work set out in section 45 will not be sufficient to protect the constructor's or employer's workers at the workplace from serious risk to their health or safety, the adjudicator,

- may issue a declaration that the constructor or employer is subject to the procedure for stopping work set out in section 47 for the period specified; and
- may recommend to the Minister that an inspector be assigned to oversee the health and safety practices of the constructor or employer at the workplace on a full-time or part-time basis for a specified period.

6) In making a finding under subsection (5), the adjudicator shall determine, using the prescribed criteria, whether the constructor or employer has demonstrated a failure to protect the health and safety of workers and shall consider such other matters as may be prescribed.

7) The decision of the adjudicator on an application is final.

8) The employer shall reimburse the Treasurer of Ontario for the wages, benefits and expenses of an inspector assigned to the employer as recommended by the adjudicator.

### Section 47.

1) This section applies, and section 45 does not apply, to a constructor or an employer,

- against whom the adjudicator has issued a declaration under section 46; or
- who advises the committee at a workplace in writing that the constructor or employer adopts the procedures set out in this section respecting work stoppages.

2) A certified member may direct the constructor or employer to stop specified work or to stop the use of any part of a workplace or of any equipment, machine, device, article or thing if the certified member finds that dangerous circumstances exist.

3) The constructor or employer shall immediately comply with the direction and shall ensure that compliance is effected in a way that does not endanger a person.

4) After complying with the direction, the constructor or employer shall promptly investigate the matter in the presence of the certified member.

5) If the certified member and the constructor or employer do not agree whether dangerous circumstances exist, the constructor or employer or the certified member may request that an inspector investigate the matter and the inspector shall do so and provide them with a written decision.

because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations or has given evidence in a proceeding in respect of the enforcement of this Act or the regulations or in an inquest under the *Coroners Act*.

2) Where a worker complains that an employer or person acting on behalf of an employer has contravened subsection (1), the worker may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply with all necessary modifications, to the complaint.

3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection (2) and section 91 of the *Labour Relations Act*, except subsection (5), applies with all necessary modifications, as if such section, except subsection (5), is enacted in and forms part of this Act.

4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), sections 104, 105, 108, 110 and 111 of the *Labour Relations Act* apply, with all necessary modifications.

5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection (1) lies upon the employer or the person acting on behalf of the employer.

6) The Ontario Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection (1).

7) Where on an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), the Board determines that a worker has been discharged or otherwise disciplined by an employer for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the infraction, the Board may substitute such other penalty for the discharge or discipline as to the Board seems just and reasonable in all the circumstances.

8) Despite subsection (2), a person who is subject to a rule or code of discipline under the *Police Services Act* shall have his or her complaint in relation to an alleged contravention of subsection (1) dealt with under that Act.

## Enforcement

### Section 54.

3) Where an inspector makes an inspection of a workplace under the powers conferred upon him or her under subsection (1), the constructor, employer or group of employers shall afford a committee member representing workers or a health and safety representative, if any, or a worker selected by a trade union or trade unions, if any, because of knowledge, experience and training, to represent it or them and, where there is no trade union, a worker selected by the workers because of knowledge, training and experience to represent them, the opportunity to accompany the inspector during his or her physical inspection of a workplace, or any part or parts thereof.

5) The time spent by a committee member representing workers, a health and safety representative or a worker selected in accordance with subsection (3) in accompanying an inspector during his or her physical inspection, shall be deemed to be work time for which he or she shall be paid by his or her employer at his or her regular or premium rate as may be proper.

This notice has been compiled for practical purposes only and shall be kept in good condition and posted in a conspicuous place where it will come to the attention of workers. For a more accurate reference, it is necessary to consult the official volumes.

For Ministry of Labour Area and District Offices please refer to the green office consolidation version of the *Occupational Health and Safety Act*.